

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

**SUPPLEMENT to FINAL
ENVIRONMENTAL ASSESSMENT**

ENVIRONMENTAL RECOMMENDATIONS IN DOCKET NO. AB-6 (Sub-No. 445X)

December 9, 2010

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:
(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

Background

In this proceeding, BNSF Railway Company (BNSF) filed a notice of exemption with the Surface Transportation Board (Board) seeking authority to abandon a 1.67-mile segment of rail line (the "Line") in the City of Great Falls, Cascade County, Montana. Prior to filing its notice of exemption with the Board, BNSF submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Montana Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). After reviewing the historic report, the SHPO replied that there are a few previously identified cultural resources sites within the project area (MT SHPO Project Ref.: 2006051510). The SHPO stated that the proposed abandonment may have an adverse effect on previously identified historic sites, and that a cultural resources survey of the Line may be needed.

Accordingly, in an EA issued October 13, 2006 and Final EA¹ issued November 3, 2006, the Board's Office of Environmental Analysis (OEA)² recommended a condition that requires BNSF to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect or APE) eligible for listing or listed in the National Register of Historic Places (National Register) until completion of the Section 106 process under the National

¹ Prior to September 2010, the Board's Office of Environmental Analysis referred to Final EAs as Post EAs.

² Previously the Section of Environmental Analysis, or SEA.

Historic Preservation Act (16 U.S.C. § 470f). By decision served on November 7, 2006, the Board granted BNSF's abandonment request and imposed the Section 106 condition recommended by OEA.

Additional Activity after the Final EA

In April 2007, BNSF submitted a cultural resources survey report to the SHPO and OEA. The report was prepared at SHPO's request, and on behalf of BNSF and OEA, to determine if the proposed abandonment would likely affect any historic properties eligible for or listed on the National Register within the APE.

The survey report indicates that the Cascade County portion of the Line had been previously recorded as Site 24CA264, which is the Lewistown to Great Falls Branch Line constructed in 1927 and 1928. The survey report describes Site 24CA264 as being potentially eligible for listing on the National Register under Criterion A, B, C and D. However, the survey report indicates that the portion of Site 24CA264 within the APE has been subject to a number of actions that have severely compromised the site's integrity of association and setting. These actions include the previous salvage of rail, the removal of a railroad bridge, the installation of a sewer main, the dumping of trash, and the expansion of residential properties into the right-of-way. Combined, these actions have negatively altered the integrity of the portion of the site within the APE. Therefore, the survey report concludes that the segment of the Site 24CA264 within the APE is a non-contributing portion of the National Register eligible property and that the undertaking would have no effect on historic properties.

After issuance of the 2007 survey report, no additional Section 106 materials were submitted to the Board's written record by BNSF, SHPO, or any other party until August 2010. On August 17, 2010, BNSF provided OEA with a copy of draft Memorandum of Agreement (MOA) it had negotiated with the SHPO and City of Great Falls. BNSF requested that OEA review the draft MOA, suggest any changes, or in the absence of any OEA comments, sign the MOA.

Before reviewing the MOA, OEA reviewed the NHPA implementing regulations and noted that an MOA is not required until there has been a determination that the proposed undertaking would have an adverse effect on historic properties. To date, neither OEA nor SHPO had made such a determination. And in light of the 2007 survey report, OEA does not believe that historic properties would be affected by the proposed abandonment.

Accordingly, in a September 22, 2010 letter to SHPO, OEA made a determination of **No Historic Properties Affected** for this undertaking. On October 13, 2010, the SHPO concurred with OEA's determination (OEA's September 22, 2010 letter with the SHPO's concurrence stamp is attached). With the SHPO and OEA in agreement, an MOA is no longer necessary and the Section 106 process has been concluded.

Conclusions

Pursuant to the regulations implementing Section 106 of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the BNSF's historic report and cultural resources survey report, all relevant correspondence, the EA, Final EA and this Supplement to the Final EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

This completes the Section 106 process and OEA recommends that the Section 106 condition imposed by the Board in this proceeding be removed at this time.

OEA also recommends that the remaining two previously imposed conditions be retained. These two conditions are self-executing (i.e., do not require BNSF to report to OEA) and include:

1. Prior to any remaining salvaging activities, BNSF Railway Company shall determine if waters of the United States (U.S.) including wetlands are present on the line proposed for abandonment. If waters of the U.S. are present and these areas would be disturbed by proposed abandonment activities, BNSF Railway Company shall consult with the U.S. Army Corps of Engineers regarding potential permitting requirements under Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. Prior to any remaining salvaging activities, BNSF Railway Company shall consult with the Montana Department of Environmental Quality to determine potential permitting requirements for the proposed abandonment.

SEA CONTACT: Dave Navecky
 202-245-0294
 naveckyd@stb.dot.gov

Distribution: Office of Proceedings
 OEA Chron
 ECT



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

September 22, 2010

Mr. Mark Baumler
Montana State Historic Preservation Officer
1410 8th Avenue
P.O. Box 201202
Helena, MT 59620-1202

CONCUR
MONTANA SHPO

DATE 30 Oct 2010 SIGNED Josef

Re: Finance Docket No. AB 6 (Sub-No. 445X); BNSF Railway Company
Abandonment near Great Falls, in Cascade County, Mont.
(SHPO Project #: 2006051510)

Dear Mr. Baumler:

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) has determined that the Board's approval of the proposed railroad abandonment in the above referenced proceeding would have no effect on historic properties pursuant to 36 C.F.R. 800.3(d)(1) of the Section 106 regulations implementing the National Historic Preservation Act, 16 U.S.C. 470f.

We have made a determination of **No Historic Properties Affected** for this undertaking based on all available information to date, including the findings of cultural resources survey that was completed for this project in March 2007 as part of our documentation efforts pursuant to 36 C.F.R. 800.11. The results of the survey are included in the report, *A Cultural Resources Inventory of a Portion of the Lewistown to Great Falls Branch Line* (2007) prepared by Ethos Consultants Inc. The report was prepared on behalf of the applicant (BNSF Railway Company), and the Board in order to determine if the proposed undertaking could have the potential to affect any National Register of Historic Places (National Register) eligible or listed historic properties located within the project right-of-way (also the Area of Potential Effect, APE). We understand that a copy of the cultural resources report had been sent to you by the applicant in April 2007.

The cultural resources survey indicated that the Cascade County portion of the rail line proposed for abandonment had been previously recorded as Site 24CA264 and determined potentially eligible for listing on the National Register under Criterion A, B, C and D. However, the survey indicated that the portion of the rail line located within the project area has been subject to a number of actions that have severely compromised the site's integrity of association and setting including: the previous salvage of rail, the removal of a railroad bridge, the installation of a sewer main, the dumping of trash, and the expansion of residential properties

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Abandonment
Great Falls,
CA CO

into the right-of-way. Combined, these actions have negatively altered the integrity of the portion of the site within the APE. Therefore, we have concluded that the segment of the Site 24CA264 within the project area is a non-contributing portion of the National Register eligible property and thereby find that the undertaking would have no effect on historic properties.

We are notifying all consulting parties for this project regarding our **No Historic Properties Affected** finding, and are making the documentation used to support this finding available to the public on our website. Please provide us with your objections to our finding, if any, within 30 days of receiving this letter.

If you have any question, please contact Dave Navecky of my staff at 202-245-0294.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

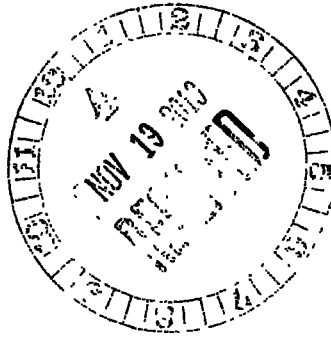
Victoria Rutson
Director
Office of Environmental Analysis

cc: John Sims, BNSF Railway Company
Ellen Sievert, City of Great Falls

Big Sky, Big Land. Big History.

Montana
Historical Society

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Helena, MT 59620-1201



VICTORIA RUTSON
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